

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.21988 OF 2005

Dated 21st October 2005

Between:

Noble College of Computer Sciences,
Musunur, Kavali, Nellore District.

...Petitioner

And

The Government of Andhra Pradesh,
Rep.by its Secretary, School Education Department,
Hyderabad & others.

...Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.21988 OF 2005

ORDER:

The petitioner is a private educational institution, permitted to run the courses of MBA and MCA. It was granted permission, approval, affiliation, etc., by the competent agencies, such as Government of Andhra Pradesh, Sri Venkateswara University and AICTE. The intake for the course of MBA is 60. Admission to this course is, on the basis of the performance of candidates in a common entrance examination, called as ICET, conducted by the third respondent herein.

Out of the 60 seats, 51 are to be filled up by the candidates sponsored by the third respondent. 9 seats can be filled up, by the management itself, with the

qualified candidates. The third respondent has sponsored only 7 candidates, and there remained 44 vacant seats. The third respondent addressed a letter, dated 20.09.2005, to all the institutions imparting the courses of MBA and MCA, enabling them to issue notifications, inviting qualified candidates and to conduct admissions by themselves, by 30.9.2005. In pursuance of this, the petitioner issued an advertisement. Only 12 candidates responded to it, and thereby 32 seats remained vacant.

Petitioner submitted a representation, dated 28.9.2005, to the second respondent, stating that sufficient number of candidates, who have qualified in the ICET, are not available, and in that view of the matter, the petitioner may be permitted to fill up the vacant seats, with the candidates who have passed the qualifying degree examination. Complaining that no action has been taken thereon, filed this writ petition seeking appropriate directions.

When the writ petition came up for admission on 7.10.2005, this Court passed an interim order, directing the second respondent, to dispose of the representation of the petitioner, dated 28.9.2005. In response to the same, the second respondent passed an order, dated 16.10.2005. He took the view that the admissions to the MBA and MCA courses have already been closed and the classes have commenced, and in that view of the matter, it is not possible to accede to the request of the petitioner.

Sri E.Manohar, learned Senior Counsel, appearing for the petitioner, submits that extensive infrastructure, provided for by the petitioner, would go waste, if the seats are not permitted to be filled up. He submits that the conducting of entrance examination became necessary to screen the candidates at a time, when the number of available seats was far less than the aspiring candidates. He contends that when there do not exist sufficient number of candidates, who have qualified in the ICET, there could not be any difficulty in permitting the candidates, who have passed the qualifying degree examination. He has placed before this Court a copy of the order, dated 23.9.2005, passed by the Supreme Court, in respect of private Engineering Colleges.

Sri Sudesh Anand, learned Standing Counsel for the second respondent, Sri Deepak Bhattacharji, learned Standing Counsel for third respondent, and Sri P.Sreeramulu Naidu, learned Standing Counsel for fourth respondent, on the other hand, submit that the directions issued by the Supreme Court were in a different context, and that the same principle cannot be extended to the instant case. It is also their case that inasmuch as the admissions have already been concluded and the classes have commenced, it would not be proper to permit the petitioner to admit the candidates, at this stage.

As against 51 seats that were meant to be filled by the candidates, sponsored by the third respondent, only 7 candidates were sponsored for the petitioner institution. A general notification was issued by the third respondent on 20.9.2005, permitting the institutions to fill up the seats, with the candidates qualified in the ICET, on or before 30.9.2005. The effort made by the petitioner, in pursuance of the said letter, resulted in admission of 12 more candidates. Still there exist 34 vacant seats. More than half of the permitted number of seats are vacant, after sponsoring of the candidates by the third respondent and inviting applications by the petitioner.

Identical situation arose in respect of various private Engineering Colleges. They approached the Supreme Court, with a plea that they be permitted to fill the seats with the candidates, who held 10+2 qualification, without insisting on their appearance in the common entrance test. The Supreme Court took the same into account, and passed an order to the following effect:

“1) It would be open to the State Governments to send the list of candidates seeking admission in engineering courses, who may have taken C.E.T. conducted by the State Governments/entrance test conducted by consortium colleges and have not got admission. The said list shall be sent to the engineering colleges within one week from the State Governments being notified about the orders passed by this Court. This order shall be notified by the applicant to the State Governments forthwith, but, in any case, not later than seventy two hours. If any State Government has fixed higher standards, the same shall have to be complied with before granting admission.

2) In case the names, as mentioned in clause (1), are received, the

colleges would give admission to those students in the first instance.

3) All remaining vacant seats are permitted to be filled up on the basis of merit marks obtained in 10+2 examination conducted by the C.B.S.E. or other Boards.

The aforesaid directions are for the present academic year, i.e. 2005-2006.”

Almost same situation exists in the instant case. The steps taken by the third respondent, as well as the petitioner, did not result in filling up of the vacant seats. The infrastructure provided for by the petitioner cannot be permitted to go waste. The view taken by the third respondent that the admissions were closed on 16.9.2005, or that the classes have been commenced from 22.8.2005, are not supported by record. On the other hand, the third respondent himself permitted the petitioner and other institutions to fill the seats, up to 30.9.2005. The programme published by the Sri Venkateswara University for MBA courses, discloses that the classes were scheduled to be commenced from 1.9.2005. There is some dispute as to whether conducting of internal examination is mandatory or not. Be that as it may, it cannot be said that there is a long time gap since the admissions have been closed.

Taking the totality of the circumstances into account, and following the orders passed by the Supreme Court, extracted above, the writ petition is disposed of, directing that;

- a. it shall be open to the third respondent to send a list of candidates to the petitioner institution, within one week from today. If the candidates so sponsored are willing to join the petitioner institution, it shall be obligatory on the part of the petitioner to admit them, on the usual terms and conditions.
- b. After expiry of one week from today, if it emerges that there exist vacant seats, the petitioner shall be entitled to fill the same, with the candidates who have passed the degree examination, even if not qualified in the ICET, on or before 31.10.2005.
- c. For such of the candidates, who have been so admitted, the petitioner shall conduct special classes, duly intimating the schedule thereof,

to the University, by the time the next university examination is conducted. It shall be open to the university, to verify whether such classes are being conducted properly and such candidates shall be entitled to appear in the university examination.

There shall be no order as to costs.

21st October 2005

Note: Issue C.C. by Monday.

(B/o)

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